

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JANET HECHT,

Plaintiff,

v.

BRUMBAUGH & QUANDAHL, P.C., LLO,

Defendant.

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PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JANET HECHT (Plaintiff), through her attorneys, KROHN & MOSS, LID., alleges the following against Defendant, BRUMBAUGH & QUANDAHL, P.C., LLO, (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692, *et seq.*
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Nebraska, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Omaha, Douglas County, Nebraska.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection law firm with a business office in Omaha, Nebraska.

FACTUAL ALLEGATIONS

10. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Capital One Bank (USA), with account number ending in 8554 (Defendant's internal File Number 09501886).
11. Plaintiff's alleged debt owed to Capital One Bank (USA) arises from transactions for personal, family, and household purposes.
12. On May 19, 2009, Plaintiff's counsel faxed a notice of representation and cease and desist letter to Defendant (Plaintiff's letter to Defendant and fax confirmation are attached as Group Exhibit A).
13. On December 14, 2010, Plaintiff's counsel faxed a notice of representation and cease and desist letter to Defendant (Plaintiff's letter to Defendant and fax confirmation are attached as Group Exhibit B).
14. Despite receiving Plaintiff's counsel's letters (Exhibits A and B), Defendant communicated with Plaintiff on December 3, 2010, in an attempt to collect a debt (Defendant's letter to Plaintiff dated December 3, 2010, is attached as Exhibit C).

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, JANET HECHT, respectfully requests judgment be entered against Defendant, BRUMBAUGH & QUANDAHL, P.C., LLO, for the following:

16. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15

U.S.C. 1692k,

17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,

15 U.S.C. 1692k

18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JANET HECHT, demands a jury trial in this case.

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Dated: January 4, 2011

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Michael S. Agruss

Michael S. Agruss
California State Bar Number: 259567
Krohn & Moss, Ltd.
10474 Santa Monica Blvd., Suite 401
Los Angeles, CA 90025
Tel: 323-988-2400 x235
Fax: 866-620-2956
magruss@consumerlawcenter.com
Attorneys for Plaintiff,
JANET HECHT

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEBRASKA

Plaintiff, JANET HECHI, states the following:

- 1 I am the Plaintiff in this civil proceeding
- 2 I have read the above-entitled civil Complaint prepared by my attorneys and I believe
that all of the facts contained in it are true, to the best of my knowledge, information
and belief formed after reasonable inquiry
- 3 I believe that this civil Complaint is well grounded in fact and warranted by existing
law or by a good faith argument for the extension, modification or reversal of existing
law
- 4 I believe that this civil Complaint is not interposed for any improper purpose, such as
to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the
Complaint
- 5 I have filed this Complaint in good faith and solely for the purposes set forth in it
- 6 Each and every exhibit I have provided to my attorneys which has been attached to
this Complaint is a true and correct copy of the original
- 7 Except for clearly indicated redactions made by my attorneys where appropriate, I
have not altered, changed, modified or fabricated these exhibits, except that some of
the attached exhibits may contain some of my own handwritten notations

Pursuant to 28 U S C § 1746(2), I, JANET HECHT, hereby declare (or certify, verify or
state) under penalty of perjury that the foregoing is true and correct.

January 10, 2011
Date

Janet L. Hecht
JANET HECHT

EXHIBIT A

Debt Counsel for Seniors & the Disabled



19 May 2009

BY FAX ONLY: 402-554-0339
Page 1 of 3

Brumbaugh & Quandahl, P.C.
4885 S 118th Street #100
Omaha NE 68137-2241

Re: Janet Hecht
Alleged creditor: Capital One Bank
Your file or reference No.: 09501886
Our file No.: 7911

Dear Sir or Madam:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests validation of it in accordance with **15 U.S.C. § 1692g**. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you

As the client's attorney, I also respectfully inform you that you must **cease** contacting them according to **§§ 1692c(a)(2) AND 1692c(c)** of the **Fair Debt Collection Practices Act**, since this letter not only serves as notice of our representation of this client but also contains a cease and desist order signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

Finally, please be advised that this client is insolvent and cannot afford to file for bankruptcy. They exist exclusively on income from **non-garnishable sources; e.g., social security, disability, veteran's or retirement benefits**. I have also enclosed my client's **affidavit** swearing to this fact. As you should know, this income is protected from execution, levy, attachment, garnishment and other legal process by federal law. The attachment or attempted attachment of these benefits is considered a violation of **§ 1692(f)** of the **Fair Debt Collection Practices Act**, so please govern your actions accordingly

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jerome S. Lamet". The signature is fluid and cursive, with a prominent "J" and "L".

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Janet Hecht

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

TRANSMISSION VERIFICATION REPORT

TIME : 05/19/2009 13:50
NAME : JEROME LANET LTD
FAX : 13123563199
TEL : 13129392221
SER. # : BROD8J797996

DATE, TIME
FAX NO./NAME
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STANDARD
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Debt Counsel for Seniors & the Disabled

DCSD

19 May 2009

BY FAX ONLY: 402-554-0339
Page 1 of 3

Brumbaugh & Quandahl, P.C.
4885 S 118th Street #100
Omaha NE 68137-2241

Re: Janet Hecht
Alleged creditor: Capital One Bank
Your file or reference No.: 09501886
Our file No.: 7911

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As the client's attorney, I also respectfully inform you that you must ~~cease~~ contacting them according to §§ 1692c(a)(2) **AND** 1692c(c) of the Fair Debt Collection Practices Act, since this letter not only serves as notice of our representation of this client but also contains a cease and desist order signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

EXHIBIT B

DCSD
Debt Counsel for Seniors & the Disabled
DCSD

December 14, 2010

BY FAX ONLY: 402- 554-0339
Page 1 of 3

Brumbaugh & Quandahl, P.C., LLO
4885 S 118th Street, Suite 100
Omaha, NE 68137

Re: Janet Hecht
Alleged creditor: Capital One
Your file or reference No.: 09501886
Our file No.: 7911

To Whom It May Concern:

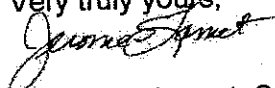
Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal statutes.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with **15 U.S.C. § 1692g**. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collect from our client through credit reporting or any other means. The continuation of collection activity without adequately responding to the validation request, is a violation of **15 U.S.C. § 1692g(b)** and could be actionable.

As the client's attorney, I respectfully inform you that you must **cease** contacting my client(s) pursuant to **15 U.S.C. § 1692c(a)(2) and 1692c(c)** and the attached signed **cease and desist** order. If and when you violate these statutes, I will not hesitate to pursue all legal remedies for my client with local co-counsel.

Finally, please be advised that this client(s) exists solely on income from **non-garnishable sources such as social security, disability, veteran's or retirement benefits**. As you know, federal law protects this income from execution, levy, attachment, garnishment and other legal process. Therefore, the threatened or actual attachment of these benefits is considered a violation of **15 U.S.C. §1692(f)**, so please govern your actions accordingly.

Very truly yours,



Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Janet Hecht

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

TRANSMISSION VERIFICATION REPORT

TIME : 12/14/2010 13:00
NAME : JEROME LAMET LTD
FAX : 13123563199
TEL : 13129392221
SER.# : BROD8J797996

DATE, TIME
FAX NO./NAME
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December 14, 2010

BY FAX ONLY: 402- 554-0339
Page 1 of 3

Brumbaugh & Quandahl, P.C., LLO
4885 S 118th Street, Suite 100
Omaha, NE 68137

Re: Janet Hecht
Alleged creditor: Capital One
Your file or reference No.: 09501886
Our file No.: 7911

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal statutes.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with **15 U.S.C. § 1692g**. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collect from our client through credit reporting or any other means. The continuation of collection activity without adequately responding to the validation request, is a violation of **15 U.S.C. § 1692g(b)** and could be actionable.

As the client's attorney, I respectfully inform you that you must **cease** contacting my client(s) pursuant to **15 U.S.C. § 1692c(a)(2) and 1692c(c)** and the attached signed **cease and desist** order. If and when you violate these statutes, I will not hesitate to pursue all legal remedies for my client with local co-counsel.

Finally, please be advised that this client(s) exists solely on income from non-remittable

EXHIBIT C

4885 South 118th St, STE 100
Omaha, NE 68137



7 15 00001799
790338

#7911

Brumbaugh & Quandahl P.C., LLO

4885 South 118th St, STE 100
Omaha, NE 68137

Toll Free: (877) 393-3992

Fax: (402) 554-0339

Website: www.bqlaw.com

December 3, 2010

RE File Number: 09501886
Creditor: CAPITAL ONE BANK (USA), *
Original Creditor:
Principal Balance: \$2,802.04

Ending in 8554



JANET HECHT c/o
JANET HECHT
6534 N 35TH ST
OMAHA NE 68112-3028

FOR SETTLEMENT PURPOSES ONLY

Our client, the above creditor, has authorized Brumbaugh & Quandahl to accept \$2,241.63 which is 80% of the current balance. If you wish to take advantage of this offer, please remit your payment to our office within twenty-five (25) days from the date of this letter.

For your convenience we offer multiple ways to make your payment.

- Call: 877-393-3992
- Mail or In Person: 4885 S. 118th St. Suite 100, Omaha NE 68137
- Online: www.bqlaw.com and click on "Make A Payment"

If your circumstances prevent you from settling this matter, please contact our office to make additional arrangements. Please reference our internal file number 09501886 in all communications with our office.

Sincerely,

Brumbaugh & Quandahl, P.C. LLO

FEDERAL DISCLOSURE

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

lst180.fm

Disclaimer: There was no attorney involvement in sending this letter.

• PLEASE DETACH HERE AND RETURN BOTTOM STUB WITH PAYMENT IN ENCLOSED ENVELOPE •

JANET HECHT c/o
JANET HECHT
6534 N 35TH ST
OMAHA NE 68112-3028

RE File Number: 09501886
Creditor: CAPITAL ONE BANK (USA), *
Original Creditor:
Principal Balance: \$2,802.04

Please make check Payable to: CAPITAL ONE BANK (USA), *

Please Remit Payment To:



Brumbaugh & Quandahl P.C., LLO
4885 South 118th St, STE 100
Omaha, NE 68137

<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> AMER EXP
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE		MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD